

# Court of Appeals, State of Michigan

## ORDER

People of MI v Jeffrey Austin

Docket No. 290749

LC No. 08-015259-FH

Christopher M. Murray  
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood  
Judges

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The Court hereby removes defendant's delayed application for leave to appeal from ABEYANCE.

The Court, pursuant to MCR 7.205(1)(3), and in lieu of granting defendant's delayed application for leave to appeal, defendant's conviction of Unlawfully Driving Away of an Automobile, MCL 750.413, that occurred in St. Joseph County Circuit Court Dkt. No. 08-038998-FH is VACATED. Defendant's conviction of this offense was based on the same facts as those supporting his conviction of the same offense in Branch County, and therefore violated his right to be free from multiple prosecutions and convictions for the same offense. See *People v Davis*, 472 Mich 156, 161; 695 NW2d 45 (2005). In all other respects, defendant's delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 10 2009  
Date

*Sandra Schultz Mengel*  
Chief Clerk